

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE

JULIAN POPE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No.: 3:24-CV-230-TAV-JEM
	)	
WYNDHAM VACATION OWNERSHIP,	)	
INC. and WYNDHAM VACATION	)	
RESORTS, INC.,	)	
	)	
Defendants.	)	

**MEMORANDUM OPINION**

This action is before the Court on periodic review. On May 20, 2024, plaintiff filed his petition [Doc. 1], which the Court denied without prejudice on grounds of subject matter jurisdiction [Doc. 17]. In that order, the Court ordered plaintiff to file an amended petition by no later than February 10, 2025 [*Id.*]. Additionally, the Court cautioned plaintiff that failure to timely file an amended petition would result in dismissal of this case without further notice [*Id.*].

The deadline set by the Court has passed, and plaintiff has failed to file an amended petition or otherwise take any action in this case. “District courts are empowered to dismiss actions when a litigant fails to comply with a court order, or fails to prosecute a case.” *Fuller v. Gerth*, 468 F. App’x 587, 588 (6th Cir. 2012) (affirming district court’s dismissal of plaintiff’s complaint due to his failure to comply with the court’s order). “When evaluating whether to dismiss a case under Rule 41(b), a court must consider: (1) whether the party’s failure to cooperate is due to willfulness, bad faith, or fault; (2) whether the

adversary was prejudiced by the dilatory conduct of the party; (3) whether the dismissed party was warned that failure to cooperate could lead to dismissal; and (4) whether less drastic sanctions were imposed or considered before dismissal was ordered.” *Id.* at 588 (quoting *Stough v. Mayville Cmty. Sch.*, 138 F.3d 612, 615 (6th Cir. 1998)).

The Court finds that plaintiff’s failure to respond is due to willfulness, bad faith, or fault; that plaintiff was warned that failure to file an amended petition would lead to dismissal; and that the Court considered less drastic sanctions but found that they would be ineffective under these circumstances. *See Fuller*, 468 F. App’x at 588. In reaching this finding, the Court notes that its most recent order [Doc. 17] determined that, absent additional filings, it lacks subject matter jurisdiction, a fundamental prerequisite in order for the Court to hear a case. *See Fed. R. Civ. P. 12(h)(3)* (“If the Court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”)

This case is thus **DISMISSED with prejudice** for failure to prosecute, failure to follow the Court’s orders, and lack of jurisdiction. *See Fed. R. Civ. P. 41(b); 12(h)(3)*. The Clerk of Court is **DIRECTED** to close this case. An appropriate order shall enter.

IT IS SO ORDERED.

s/ Thomas A. Varlan  
UNITED STATES DISTRICT JUDGE